

Message Text

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SUBJECT: NARCOTICS LAWS OF MADAGASCAR

REF: STATE 170187

1. ANSWERS TO QUESTIONS (1)-(5) OF REF FOLLOW.

2. POSSESSION. (A) POSSESSION OF INDIAN HEMP
DIFFERENTIATED FROM OTHER NARCOTICS. PENALTY FOR
POSITION OF INDIAN HEMP IS 6 MONTHS-5 YEARS IMPRI-
SONMENT AND/OR FINE OF 10,000 FMG - 1 MILLION FMG
(\$ 42 - \$4,200). PENALTY FOR POSSESSION OF ALL OTHER
NARCOTICS IS 3 MONTHS - 5 YEARS IMPRISONMENT AND/OR
FINE OF 120,000 FMG - 1,200,000 FMG (\$ 500 - \$50,000).
PENALTIES DOUBLE IN BOTH CASES FOR RECIDIVISM. ADDI-
TIONAL PENALTIES FOR POSSESSION OF ANY NARCOTIC: PRO-
HIBITION OF STAYING IN AREA OF CRIME 5 - 10 YEARS,
LOSS OF RIGHT TO VOTE 1-5 YEARS.
(B) NO QUALIFYING AMOUNT TO CONSTITUTE POSSESSION, IN LAW,
REGULATION, OR PRACTICE, BUT USUALLY WITH SMALLER QUANTITIES THE
PENALTY IS LESS SEVERE.
(C) PENALTIES FOR POSSESSION ARE EQUALLY SEVERE AS OTHER NAR-
COTICS OFFENSES. BETWEEN MINIMUM AND MAXIMUM PENALTIES GIVEN
IN (A), APPLICATION OF PENALTIES IS LEFT TO JUDGE'S DISCRETION.

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3. TRAFFICKING. (A) LAW CONSOLIDATES ALL CONTROLLED SUBSTANCES
INTO A GENERAL TRAFFICKING OFFENSE, EXCEPT FOR INDIAN HEMP.
(B) PENALTIES ARE SAME AS FOR POSSESSION. CENTENCING IS MAN-
DATORY. BAIL DOES NOT EXIST. THERE IS SYSTEM OF PAROLE. IF
SENTENCES LESS THAN 6 MONTHS, ELIGIBLE FOR PAROLE IN 3 MONTHS.
FOR LONGER SENTENCES, ELIGIBLE FOR PAROLE AFTER ONE HALF OF
SENTENCE IS SERVED. FOR RECIDIVIST, IF SENTENCE LESS THAN 9 MONTHS,

ELIGIBLE AFTER 6 MONTHS. FOR LONGER SENTENCES, ELIGIBLE AFTER TWO THIRDS OF SENTENCE IS SERVED. IF SENTENCE IS LIFE IMPRISONMENT, ELIGIBLE AFTER 15 YEARS.

(C) THERE IS NO QUALIFYING AMOUNT TO CONSTITUTE TRAFFICKING. INTENT TO TRAFFIC, ASSOCIATION WITH TRAFFICKERS OR PRODUCERS IS PENALIZED SAME AS FOR POSSESSION AND TRAFFICKING.

(D) THERE IS A CRIMINAL OFFENSE RELATING TO CONSPIRACY TO TRAFFIC, IMPORT OR EXPORT NARCOTICS. PENALTIES SAME AS FOR POSSESSION AND TRAFFICKING.

(E) CULTIVATION, PRODUCTION, ELABORATION. (A) (B) CULTIVATION OF CANNABIS, COCA AND OPIUM POPPY IS PROHIBITED BY LAW EXCEPT WHEN AUTHORIZED BY STATE FOR SCIENTIFIC INSTITUTION.

(F) PENALTIES FOR ELABORATION SAME AS FOR POSSESSION AND TRAFFICKING.

5. FINANCIAL. (A) THERE IS AN OFFENSE RELATING TO FINANCIAL SUPPORT FOR CULTIVATION, ELABORATION OR TRAFFICKING IN NARCOTICS. IN LAW AND IN PRACTICE IT IS TREATED BY COURTS IN SAME WAY, WITH SAME PENALTIES, AS POSSESSION AND TRAFFICKING.

(B) EXPORT OF CURRENCY IS STRICTLY CONTROLLED BY MINISTRY OF FINANCE. NO LAW ON FOREIGN BANK ACCOUNTS, BUT DEPOSIT ABROAD OF FMG OR ANY MONEY EARNED IN MADAGASCAR IS NOT ALLOWED.

6. CRIMINAL PROCEDURE. (A) THERE IS A PERIOD OF INVESTIGATIVE DETENTION PROVIDED FOR IN THE LAW. FOR MOST OFFENSES, THIS PERIOD HAS LEGAL MUXIMUM OF 48 HOURS. ONLY FOR CRIMES THREATENING SECURITY OF STATE CAN SUSPECTS BE HELD FOR LONGER THAN 48 HOURS-
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UP TO 15 DAYS, SATURDAYS AND SUNDAYS NOT COUNTED. IN PRACTICE, THE 48 HOUR MAXIMUM IS USUALLY RESPECTED, BUT THE LONGER PERIOD IS LIBERALLY APPLIED. CONSULAR ACCESS NOT PERMITTED DURING PERIOD OF INVESTIGATIVE DETENTION. EMBASSY RARELY OFFICIALLY NOTIFIED OF ARREST DURING THIS PERIOD.

(B) DELAY TRIAL VARIES FROM ONE DAY TO SEVERAL MONTHS, AND OCCASIONALLY MORE THAN 1 YEAR.

(C) FOR DRUGS, TRIALS USUALLY TAKE 1-3 MONTHS. FOR MORE SERIOUS OFFENSES, TRIALS MAY LAST 1 YEAR. REVIEW AVERAGES 3 DAYS, APPEAL, 3 MONTHS.

(D) IF DEFENDANT CANNOT PAY FOR HIS OWN ATTORNEY, OR IF HE DOES NOT WANT TO HAVE ONE, THE COURT APPOINTS LEGAL COUNSEL.

(E) PAROLE DESCRIBED IN PARA. 3(B).

(F) THERE ARE NO EXPULSIONS OF MINOR OFFENDERS. BARRETT

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